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Attorneys for Defendant Meta Platforms, Inc.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

MAXIMILIAN KLEIN, et al.,

Plaintiffs,

v.

META PLATFORMS, INC., a Delaware
corporation,

Defendant.

Case No. 3:20-cv-08570-JD

**NOTICE OF FILING OF
NOTICE OF TAG-ALONG ACTION
WITH JUDICIAL PANEL ON
MULTIDISTRICT LITIGATION**

Judge: Hon. James Donato

1 Defendant Meta Platforms, Inc. writes to notify the Court that on March 9, 2022, Meta
 2 filed a Notice of Potential Tag-Along Action with the Judicial Panel on Multidistrict Litigation
 3 (JPML), pursuant to Rule 7.1(a) of the JPML Rules of Procedure, to notify the JPML that the
 4 amended complaint filed by the Advertiser Plaintiffs (Dkt. No. 237) following this Court's
 5 decision granting in part and denying in part Meta's motion to dismiss (Dkt. No. 214) is a
 6 potential tag-along action to the actions that have been centralized in *In re: Google Digital*
 7 *Advertising Antitrust Litigation*, 1:21-md-03010-PKC (S.D.N.Y.). A copy of the Notice, without
 8 its exhibits, is attached as Exhibit A.

9 1. On April 30, 2021, Google LLC, Alphabet Inc., and YouTube, LLC (together,
 10 "Google") petitioned the JPML under 28 U.S.C. § 1407 and JPML Rule 6.2 for an order
 11 transferring actions asserting antitrust claims based on Google's digital advertising practices
 12 pending in sixteen different district courts, and any later-filed cases that assert similar or related
 13 claims, to a single district court for consolidated or coordinated pretrial proceedings. Nearly all
 14 those cases contain allegations concerning Meta (formerly known as Facebook), including
 15 antitrust claims related to the Google-Facebook Agreement that forms the basis in part of the
 16 Advertiser Plaintiffs' antitrust claims in this case. Several of those cases name Meta as a
 17 defendant. On May 26, 2021, Meta filed a response to Google's petition, supporting the transfer
 18 and centralization of those cases into a multidistrict litigation (MDL).

19 2. On June 30, 2021, Meta alerted this Court to the pending Google MDL petition in
 20 the second joint case management statement. *See* Dkt. No. 114 at 11-12.

21 3. On August 10, 2021, the JPML granted Google's petition and centralized those
 22 actions in *In re: Google Digital Advertising Antitrust Litigation*, 1:21-md-03010-PKC
 23 (S.D.N.Y.).

24 4. In the third, fourth, fifth, and sixth joint case management statements in this case,
 25 Meta stated that it would evaluate next steps concerning the Advertiser Plaintiffs' case and the
 26 MDL following the Court's decision on its pending motion to dismiss. *See* Dkt. No. 139 (Aug.
 27 25, 2021) at 12; Dkt. No. 157 (Sept. 29, 2021) at 9; Dkt. No. 201 (Dec. 1, 2021) at 12; Dkt.
 28 No. 212 (Jan. 5, 2022) at 7.

1 5. On January 14, 2022, the Honorable Lucy H. Koh denied Meta’s motion to
2 dismiss the Advertiser Plaintiffs’ claim alleging that the Google-Facebook agreement violates
3 Section 1 of the Sherman Act (Count III) and their other claims (Counts I and II) to the extent
4 those claims concern the Google-Facebook agreement at the core of several complaints in the
5 MDL. *See* Dkt. No. 214. Judge Koh otherwise granted Meta’s motion to dismiss the Advertiser
6 Plaintiffs’ claims with leave to amend. *See id.*

7 6. On January 27, 2022, Meta filed a notice of potential tag-along action with the
8 JPML, submitting that the Advertiser Plaintiffs’ action challenging the Google-Facebook
9 agreement should be centralized in the MDL. *In re: Google Digital Advertising Antitrust Litig.*,
10 1:21-md-03010-PKC (S.D.N.Y.), Dkt. No. 149. Meta also filed a notice of that notice of tag-
11 along action with this Court. *See* Dkt. No. 220.

12 7. On February 8, 2022, the Clerk of the JPML determined that the Advertiser
13 Plaintiffs’ action was “not appropriate for inclusion in this MDL at this time” because “it is
14 anticipated that plaintiffs will file an amended complaint affecting the nature of the factual
15 allegations and claims,” but stated that “Defendant Facebook, or any other party, may re-notice
16 this action as a potential tag-along action once the amended complaint is filed.” *In re: Google*
17 *Digital Advertising Antitrust Litig.*, 1:21-md-03010-PKC (S.D.N.Y.), Dkt. No. 150.

18 8. On February 17, 2022, the parties filed their seventh joint case management
19 statement, in which Meta notified the Court of the JPML’s February 8 order and stated that,
20 “[c]onsistent with the JPML’s order, Meta anticipates re-noticing the Advertisers’ claim or
21 claims at the appropriate time.” Dkt. No. 227 at 4.

22 9. On February 28, 2022, the Advertiser Plaintiffs filed their amended complaint.
23 Dkt. No. 237.

24 10. On March 9, 2022, Meta filed a notice of potential tag-along action with the
25 JPML, submitting that the Advertiser Plaintiffs’ amended complaint should be centralized in the
26 MDL. A copy of the Notice, without its exhibits, is attached as Exhibit A.

1 Dated: March 9, 2022

Respectfully submitted,

2 By: /s/ Sonal N. Mehta

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19 *Attorneys for Defendant Meta Platforms, Inc.*

CERTIFICATE OF SERVICE

I hereby certify that on this 9th day of March, 2022, I electronically transmitted the foregoing document to the Clerk's Office using the CM/ECF System.

By: /s/ Sonal N. Mehta
Sonal N. Mehta